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ABATE's Reply Comment's to Ready Michigan to Make Good Energy Decisions: Electric Choice Draft Report Issued October 15, 2013

The Draft Report, unfortunately, fails to present a very balanced presentation of the issue of Choice (the ability to purchase electric power from a third party). The Draft Report is largely a compendium of claims and arguments of the Joint Utility Response, many of which have been thoroughly debunked or are unsubstantiated. The Draft Report has little critical analysis of the utilities' claims, and does not even recognize that some of these oft-repeated arguments in the Draft Report have been thoroughly disproven in forums where there was critical analysis and the ability to test the veracity of the claims, such as through cross-examination. The issue is whether utilities should have a monopoly over providing generation service or whether customers should have a choice of competitive providers for generation service. Customers readily understand that given the option between a monopoly and a competitive market, the competitive market will produce lower prices and better service.

Customer Choice Lowers Rates for All Customers

The Draft Report is incomplete. For example, the Draft Report states "additionally, the utilities report that the free option to switch to Choice costs remaining utility customer approximately \$300 million per year." (p. 5 and several other places). However, the Draft Report fails to acknowledge once again that this claim has been debunked in PSC proceedings involving both Consumers Energy and Detroit Edison, and before the Michigan Legislature on several occasions. This is a perfect example of an unsupported statement that is designed to lead the reader to a fully erroneous conclusion, to-wit: that "Choice costs remaining utility customers approximately \$300 million per year." In fact, when subjected to critical analysis or cross

examination, it has been repeatedly demonstrated that this claim only considered “fixed costs,” which are not even the majority of costs, and that when variable costs, such as high-cost purchased power, fuels and other activities such as alternative sales, are considered, that Choice does **not** cost remaining utility customers anything!

However, when proponents of Choice point out that during the 8 years of customer choice (2000 to 2008), Michigan’s rates actually declined below the national average for the first time in decades, the Draft Report confronts the factual data with the statement “This perspective may not tell the entire story.” (p. 35) Apparently there is no failure to tell the entire story when the utilities only talk about \$300 million of fixed costs, but the Draft Report feels it needs to go out of its way to try to explain away the fact that Michigan’s rates, for the first time in decades, did go below the national average during the period we had full customer Choice. Thus, the Draft Report falls short of providing accurate data to support reasonable policy choices for the State of Michigan.

Another example is where the Draft Report states “the current rate structure essentially transfers fixed cost no longer recoverable from customers participating in Choice to all remaining customers, creating a subsidy for more than 99% of customers to less than 1% of customers.” (p. 13).. This claim does not recognize that 99% of the customers received substantial benefits which ***more than offset the costs of the fixed costs*** from the reduced variable expenses the utility incurred, the additional sales that it made from capacity freed up from the 1% of customers that were on Choice, and the increased utility cost control from competitive pressure.

The Draft Report dutifully includes table after table and chart after chart of data provided by the Joint Utility Response without providing any evidence that it has factually checked or critically analyzed them. Obviously, huge expenditures and great resources have been devoted to attempting to portray the utilities’ monopoly position as reasonable. The Draft Report ignores the information presented by ABATE that its members were saving approximately \$25 per megawatt hour by buying electricity in deregulated markets compared to regulated rates. *See*, attached slides.

Reasons for Residential Customer Low Participation

A further example of a lack of balance is demonstrated by the discussion of residential participation in Choice. On this issue the Draft Report notes that “the number of residential customers participating in Choice is negligible, though residential customers are in queue for both Consumers and DTE.” The Draft Report makes no mention that this was because the Choice program adopted in 2000 under Act 141 provided for a 5% rate reduction and rate freeze that distorted market prices ***deliberately***, and the 2000 Choice program did not foster or encourage residential aggregation like other states which have substantial residential customer participation in choosing their generation service. Although the Draft report ***misses*** the relationship of these key points on residential participation, the Draft Report ***does*** recognize “for 5 years (2000-2005), there was a legislatively-mandated rate cap.” The impact of the rate cap is never acknowledged as a driver behind low residential participation.

Customers Have Chosen Choice Over Regulated Rates

Next, the Draft Report states “the Joint Utility Response reports that customer participation in retail access today is at its historically highest level due to low deregulated (wholesale) market power prices” and notes that “this participation is only 12% of U.S. customers (22% of electric load).” (p. 16) The strong implication left by this, and the seriously out-of-date quotes from ex-governors in states where restructuring was poorly handled, is that there is little interest and that Choice is a bad thing. However, the reality is, as was presented by Dr. Phil O’Connor to the Michigan Legislature in April of this year, that competitive electric supply has grown 40% from 2008 to 2011, and that residential, commercial, and industrial customers have shown substantial increases in the amount of their class load or Choice over those same 3 years. Moreover, increased customer choice in 2012 rose rapidly due to fundamental changes in energy supply in the U.S., creating more stable, long term competitive electric prices.

The Draft Report implies that transmission ownership somehow affects energy Choice in Michigan. However, the major Michigan electric utilities have divested their transmission assets in order to promote non-discriminatory access to the means to transmit electricity to retail markets. This may be viewed as a step towards promoting competition, not impeding it.

Choice Reduces Customer Risk

Next, the Draft Report refers to “numerous bankruptcies of deregulated generators” during the early 2000s as some reason to prevent customers from choosing from whom to get their generation supply. However, the Draft Report fails to note that these bankruptcies cost ratepayers nothing. Even more significant an omission, however, is the failure to recognize the financial bailouts that Michigan’s utilities have received over numerous decades for financially disastrous energy supply facilities. In their era, each of these project’s names alone became a euphemism for a financial disaster – Palisades, the Midland nuclear plant, the Fermi nuclear plant, the Marysville Synthetic Natural Gas Plant, and the Midland Co-generation Venture which cost rate payers three times what such a cogeneration facility should have cost. Each of these financial disasters cost rate payers hundreds of millions of dollars, but the merchant plant financial failures referenced in the Draft Report cost rate payers nothing. Yet, they are cited as a reason to retain utility monopolies over generation.

Michigan Rates Rose Because of Utility Rate Requests, Not Choice

Next, the Draft Report takes the chart of Michigan rates compared to national rates and mischaracterizes the data by stating: “after the rate cap expired, Michigan’s rates rose extremely fast and 4 years later would exceed the national average.” First, the Draft Report fails to recognize that actions taken by the Michigan Public Service Commission in 2005 significantly undermined customers’ ability to experience saving in the wholesale market by adding surcharges to the retail open access rates then available, and most importantly, the Draft Report fails to recognize that Michigan’s rates nonetheless still remained below the national average until the impact of the October 2008 legislation (Act 286) was experienced and pushed Michigan’s rates rapidly above the national average.

The Draft Report suggests that alternative electric suppliers (“AESs”) enjoy certain advantages over regulated utilities in the areas of energy optimization and renewable energy (p. 23). The energy optimization surcharges are levied on all customers irrespective of their generation supplier, and the regulated utilities receive millions in bonus payments for running these programs. AESs must also comply with the renewable standards applicable to all generation suppliers. Consequently, there are no advantages enjoyed by AESs that would give them a structural competitive edge.

Summary

In short, the Draft Report is hardly the basis for any kind of balanced look at customer Choice, and instead simply has become a forum for the supporters of monopoly generation service to flood the forum with every conceivable (and some inconceivable) arguments and charts to defend their monopoly status. Hopefully, before any serious policy decisions are made, a more balanced examination of the issue will occur.

Potential Choice Savings for Michigan

- Market is now \$25/MWh less than utility supply.
- 9.4 million MWh served competitively = 11%.
- 9.4 million MWh in the unserved queue = 11%.
- 9.4 million MWh x \$25 = \$235 million in potential savings.

Sources:

- ABATE member average per MWh savings in 2012
- "Status of Electric Competition in Michigan," PSC, February 1, 2013

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ABATE Member Experience

- 2012 Choice savings in Michigan: \$34 million (25% savings)
- 2012 Choice savings in other states compared to average Michigan utility rates: \$65 million

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